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Kirby, Neal L. Kirby and Susan M. Kirby

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARVEL WORLDWIDE, INC.,
MARVEL CHARACTERS, INC. and
MVL RIGHTS, LLC,

Plaintiffs,

-against-

LISA R. KIRBY, BARBARA J. KIRBY,
NEAL L. KIRBY and SUSAN M. KIRBY,

Defendants.

Civil Action No. 10-141 (CM) (KF)

[Hon. Colleen McMahon]

[ECF Case]

**DECLARATION OF NEAL L. KIRBY IN SUPPORT OF
DEFENDANTS' MOTION TO DISMISS**

I, Neal L. Kirby, hereby declare as follows:

1. I am the son of Jack Kirby, (a.k.a. Jacob Kurtzberg). I am familiar with the facts set forth below and make this declaration in support of defendants' motion to dismiss. The facts set forth herein are known to me of my own personal firsthand knowledge and, if called as a witness, I could and would testify competently thereto under oath.

2. I am a resident and citizen of the state of California. I reside in Orange County, California and have lived in California since 1970.

3. Along with my siblings, Barbara J. Kirby, Lisa R. Kirby and Susan M. Kirby, I executed and served by first class mail on September 16, 2009, forty-five notices of termination ("Notices of Termination") regarding prior alleged grants of copyrights in works authored or co-authored by my father.

4. I, along with my sister, Lisa Kirby, oversee the Notices of Termination and any litigation with respect thereto. I was involved in the retention of the Los Angeles law firm of Toberoff & Associates, P.C. to draft and serve the Notices of Termination and consult with the firm with respect to any litigation regarding the Notices.

5. I do not operate a business in the State of New York nor do I "systematically and continuously" transact or solicit business in New York.

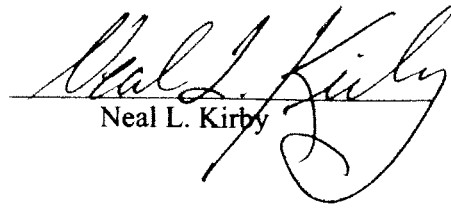
6. I do not own or maintain any offices, bank accounts, real property or other assets in New York, nor do I have any employees in New York.

7. I do not pay income, property or use taxes to the State of New York.

8. On March 9, 2010, I, along with my siblings, filed a lawsuit in the United States District Court, Central District of California, seeking, among other things, a declaratory judgment that our Notices of Termination are valid and effective under the Copyright Act.

I declare under penalty of perjury that to the best of my knowledge the foregoing is true and correct.

Dated: March 9, 2010


Neal L. Kirby

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing was served electronically by the Court's ECF system and by first class mail on those parties not registered for ECF pursuant to the rules of this court.

Dated: March 9, 2010

TOBEROFF & ASSOCIATES, P.C.

By: s/Marc Toberoff
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